

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
AMARILLO DIVISION**

STATE OF TEXAS; TEXAS HEALTH AND
HUMAN SERVICES COMMISSION,

Plaintiffs,

V.

XAVIER BECERRA, in his official capacity as Secretary of the United States Department of Health and Human Services; UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES; CHIQUITA BROOKS-LASURE, in her official capacity as Administrator of the Centers for Medicare & Medicaid Services; MEENA SESHAMANI, in her official capacity as Deputy Administrator and Director of Center for Medicare; DANIEL TSAI, in his official capacity as Deputy Administrator and Director of Medicaid and CHIP Services; THE CENTERS FOR MEDICARE & MEDICAID SERVICES; JOSEPH R. BIDEN, in his official capacity as President of the United States; UNITED STATES OF AMERICA;

Defendants.

Case No. 2:21-CV-00229-Z

PLAINTIFFS' NOTICE TO THE COURT OF FIFTH CIRCUIT STAY DECISION

In its December 3 order granting Defendants’ Motion to Stay Proceedings, the Court required the parties to “immediately notify this Court of an Intervening Court Action.” Order at 2. As required, Plaintiffs now notify the Court that the Fifth Circuit has granted in part and denied in part the federal government’s motion to stay the nationwide preliminary injunction of the CMS Vaccine Mandate issued by a Louisiana district court. Order, *Louisiana v. Becerra*, No. 21-30734

(5th Cir. Dec. 15, 021) (attached). The panel first ruled that the federal government had not made a strong showing of likely success on the merits. *Id.* at 3. The panel then ruled, however, that the preliminary injunction should be limited to the fourteen States who were plaintiffs in that litigation. *Id.* at 5-6. Thus, while declining to stay the preliminary injunction, the Fifth Circuit limited its reach to the parties in that case.

Because it is no longer covered by a nationwide injunction, Texas now needs a ruling on its motion for a preliminary injunction. As indicated in this Court's December 3 order, in the event of an intervening court action, the Court would "immediately convene an emergency telephonic hearing or virtual hearing to finally adjudicate" Texas's motion. Order at 2. Texas requests that relief now.

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CERTIFICATE OF SERVICE

I hereby certify that the foregoing document and all attachments were filed via CM/ECF, causing electronic service on all counsel of record.

/s/ Beth Klusmann
BETH KLUSMANN